

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-2302V

DANIEL WOLIN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: August 30, 2023

Rhonda Lorenz-Pignato, Shannon Law Group, P.C., Woodridge, IL, for Petitioner.

Alexa Roggenkamp, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On December 17, 2021, Daniel Wolin filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleged that he suffered a right shoulder injury related to vaccine administration (“SIRVA”), a defined Table injury, or in the alternative a causation-in-fact shoulder injury, after receiving an influenza (“flu”) vaccine on November 11, 2020. Petition at 1, ¶¶ 2, 68-69. Petitioner further alleges that he received the vaccine within the United States, that he suffered the residual effects of his injury for more than six months, and that neither he nor any other party has filed a civil action or received compensation for his injury, alleged as vaccine-caused. Petition at ¶¶ 2, 61, 65-66. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this Ruling contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

On August 18, 2023, Respondent filed his Rule 4(c) Report in which he concedes that Petitioner is entitled to compensation for his right axillary neuropathy, but not his alleged Table SIRVA injury. Respondent's Rule 4(c) Report at 1, 1 n.1, 7 n.2, ECF No. 28. Specifically, Respondent "has determined that [P]etitioner's condition is consistent with a right axillary nerve injury . . . and has concluded that a preponderance of the medical evidence establishes that [P]etitioner's right axillary nerve injury was caused-in-fact by the flu vaccine he received on November 11, 2020." *Id.* at 7.

To discuss the matter further, a call was scheduled in this case for September 12, 2023. During email communications, the parties informed me that Petitioner had no objection to my issuance of a ruling finding him entitled to compensation based upon a causation-in-fact injury – right axillary neuropathy. See Informal Remark, dated Aug. 30, 2023. They also informed me that they had agreed upon the appropriate amount of damages. *Id.*

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation for his right axillary neuropathy, a causation-in-fact injury.

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master